

CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
DIVISION No.: 01-Montreal
COURT No.: 500-11-046561-144
ESTATE No.: 41-1858263

SUPERIOR COURT
Commercial Division

**IN THE MATTER OF THE
BANKRUPTCY OF:**

CASTELLO DEVELOPMENT LTD., a legal person, duly constituted under *Business Corporations Act* (Alberta), having its registered head office at Unit 127, 6227 - 2nd Street S.E., Calgary, Alberta, T2H 1J5, and having a chief place of business at Suite 970, 3500 de Maisonneuve Blvd. West, Montreal, Quebec, H3Z 3C1

Bankrupt

– and –

SAMSON BÉLAIR/DELOITTE & TOUCHE INC. (Jean-Christophe Hamel, CPA, CA, CIRP, designated responsible person) having its place of business at 1 Place Ville Marie, Suite 3000, Montreal, Quebec, H3B 4T9

Trustee

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

The *Bankruptcy and Insolvency Act*, a federal act in Canada (the “Act”), provides for a first meeting of creditors to discuss the creditors’ collective interest in the administration of the Bankrupt’s estate.

A) Background

Castello Development Ltd. (“**Castello**”) is a legal person, duly constituted under the *Business Corporations Act* (Alberta), having its registered head office at Unit 127, 6227 - 2nd Street S.E., Calgary, Alberta, T2H 1J5, and having a chief place of business at Suite 970, 3500 de Maisonneuve Blvd. West, Montreal, Quebec, H3Z 3C1. Castello was established for the sole purpose of operating a real estate asset, namely a condominium project. The sole shareholder of Castello is Homburg Invest Inc. (“**HI**”).

Castello's only real estate asset was a condominium project consisting of a 19-storey, 106-unit condominium tower located in Calgary, Alberta. The project was completed and was ready for occupancy in late fall of 2008.

Restructuring of HII and of certain related entities (including Castello)

On September 9, 2011, HII and certain related entities (the "**HII CCAA Parties**"), initiated a restructuring process under the *Companies' Creditors Arrangement Act* ("**CCAA**") by obtaining Initial Order (as amended and extended from time to time, the "**Initial Order**") from the Superior Court of Québec (the "**CCAA Court**"). On February 6, 2013, the Initial Order was amended by the CCAA Court in order to, *inter alia*, add Castello as a HII CCAA party.

HII, through a number of entities (collectively with HII, the "**HII Group**"), owns a diversified portfolio of real estate assets in Europe (the Netherlands, Germany and the Baltic States), Canada and the United States. As part of its restructuring, the HII Group ultimately determined that all of its North American properties, including that of Castello, constitute non-core properties that will not form part of the HII Group's restructured portfolio.

At the time of the addition of Castello as a HII CCAA Party under the Initial Order only two of Castello's condominium project's finished units remained unsold. Readers are invited to refer to the *Motion for an Extension of the Stay Period, Amendments to the Initial Order (Homco 61 & Castello), Authorizations of Sale (Homco 92 and Holman Grand Hotel), a Vesting Order (Centron Park) and for Authorization to file Additional Intercompany Claims* dated February 4, 2013 (available on the Monitor's website at www.deloitte.com/ca/homburg-invest) for additional details on the addition of Castello as a HII CCAA party.

The sale of the final condominium unit in Castello closed on or about February 14, 2014. On March 11, 2014, the stay of proceedings in favor of Castello provided by the amendment to the Initial Order dated February 6, 2013 expired and, in accordance with a decision of the HII Group (as part of HII Group's restructuring initiatives), was not extended.

Causes of insolvency

As of April 8, 2014, Castello's only asset was a cash balance of \$2.4M and its rights in a parking unit. As per Castello's books and records, Castello's potential unsecured liabilities as of April 8, 2014 totaled \$10.8M, of which \$9.5M is due to an affiliated company (namely HII) and \$1.3M is related to a contingent claim.

Castello meets the definition of an "insolvent person" under the Act because, *inter alia*, the aggregate value of its assets is not, at fair valuation, sufficient to enable payment of its obligations, due and accruing due.

Bankruptcy

As (i) the value of Castello's assets is lower than the value of its liabilities, and (ii) Castello no longer has a purpose as all of the units of the condominium project were sold and Castello was not a core entity that was retained to form part of the HII Group's restructured portfolio, the decision was made for Castello to file an assignment in bankruptcy. On April 10, 2014, Castello filed an

assignment in bankruptcy and Samson Bélair/Deloitte & Touche Inc. was appointed as trustee.

B) Trustee's preliminary evaluation of assets

Below is a summary of the Statement of Affairs as of April 8, 2014 which includes the estimated net realization value of the assets of Castello as well as the estimated deficit following the distribution of estimated proceeds from the liquidation of the assets to creditors:

Castello Development Ltd.	
Statement of Affairs (\$)	Net realization
As of April 8, 2014 (unaudited)	value
Assets	
Cash	2,445,537
Parking space	TBD
	<u>2,445,537</u>
Liabilities	
Unsecured creditor - Intercompany	9,504,269
Unsecured creditors	51,707
Contingent claim	1,267,000
	<u>10,822,976</u>
Deficit (before costs of administration)	<u><u>(8,377,439)</u></u>

Please note the following with regard to the above Statement of Affairs:

- Cash: Cash balances are based on the bank account balances as per the most recent bank statements available as of April 8, 2014.
- Parking space: As of the time of the bankruptcy, Castello still owned the rights to one of the parking space from the condominium project. As of the time of this report, the Trustee was however not able to estimate the liquidation value of this asset or if such estimated liquidation value would exceed any realization costs that would need to be incurred to complete the sale of this parking space (including legal costs).
- Contingent claim: The condominium corporation filed a claim ("**Condo Corp Claim**") of \$1,267K in Castello's CCAA claims process resulting from alleged building deficiencies. As no plan of arrangement was ever filed by Castello pursuant to the CCAA, the former Monitor of the Bankrupt and the Bankrupt never formally addressed this claim filed by the condominium corporation. Presuming that a proof of claim will be submitted by the condominium corporation to the Trustee in the course of Castello's bankruptcy, the Trustee (with the assistance of the Bankrupt) will need to determine the validity of the condominium corporation's claim in relation to alleged building deficiencies and assess its value (if any).

- Total liabilities: Please note that creditors will have the onus to prove their claims and only those claims that are proven will constitute valid claims and will receive a distribution if funds are available. One should note that the amount of claims received from unsecured creditors in Castello's CCAA procedures totaled \$10,353,153.73, namely principally the intercompany claim for advance made by HII and the contingent claim of the condominium corporation.

C) Conservatory and protective measures

The Trustee implemented the following conservatory and protective measure:

- Closing of all of Castello's bank accounts and requesting the funds to be transferred to the Trustee.

D) Information relating to provable claims

As of the time of the preparation of this report, the total amount of claims received from unsecured creditors is \$9.5M.

E) Legal proceedings, transfer at undervalue, and preference payments

The Trustee has not initiated any legal proceedings and has not identified any transfer at undervalue or preference payments to date.

F) Conflict of interest and details of fee guarantees

Conflict of interest

As stated above, on September 9, 2011, the HII CCAA Parties initiated a restructuring process under the CCAA pursuant to the Initial Order and, on February 6, 2013, pursuant to an amendment to the Initial Order, Castello added as a HII CCAA Party under the Initial Order. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. was appointed monitor of the HII CCAA Parties, including Castello. As of the time of this report, HII along with some of the related entities included in the Initial Order, now excluding Castello, are still under the protection of the CCAA.

As mentioned in the previous sections of this report, HII is the sole shareholder of Castello. The Trustee, however, does not believe that Samson Bélair/Deloitte & Touche Inc.'s role as court-appointed monitor in the CCAA proceedings of HII puts it in a position of conflict of interest to act as Trustee in bankruptcy of Castello. As court-appointed monitor under HII's CCAA proceedings, Samson Bélair/Deloitte & Touche Inc. is an officer of the CCAA Court, appointed to monitor the business and financial affairs of HII. As Trustee of Castello, Samson Bélair/Deloitte & Touche Inc. is an officer of the Superior Court of Québec, appointed to administer the Bankrupt's estate in accordance with the Act.

Details of fee guarantees

In an order dated October 10, 2012, the CCAA Court extended the definition of the "Administration Charge" granted in the Initial Order, such that it secures the professional fees and

disbursements of Samson Bélair/Deloitte & Touche Inc., in its capacity as Trustee in bankruptcy of Castello.

G) Projected distribution and Trustee's comments on anticipated asset realization

The Trustee estimates that the proceeds which will be realized from the liquidation of Castello's assets (totaling \$2.4M as per the Statement of Affairs) could result in a dividend ranging from approximately 22 to 26 cents on the dollar to the unsecured creditors. The amount of the final dividend to the unsecured creditors will depend namely on the total amount of claims that will be proven by creditors before the dividend distribution and on the costs of administration of the estate.

H) Trustee's remuneration

The Trustee will seek approval of the estate inspector(s) appointed in the course of the administration of Castello's bankruptcy, if any, to settle the Trustee's professional fees and disbursements out of the assets of the estate.

Further, as noted above, in an order dated October 10, 2012, the CCAA Court extended the definition of the "Administration Charge" granted in the Initial Order, such that said charge secures the professional fees and disbursements of Samson Bélair/Deloitte & Touche Inc., in its capacity as Trustee in the bankruptcy of Castello.

I) Other matters

None.

DATED AT MONTREAL, Quebec, this 1st day of May, 2014.

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
In its capacity as Trustee of the estate of
Castello Development Ltd.
and not in its personal capacity

Per:



Jean-Christophe Hamel, CPA, CA, CIRP
Vice-President